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Boudreau, Paul E

To: Burger, David
Subject: RE: Guidance 1/24/06: Council of Europe Investigation of Renditions, Secret Prisons

RELEASED IN FULL

From: Orlansky, Michael D
Sent: Wednesday, January 25, 2006 8:34 AM
To: Milovanovic, Gillian A; Wohlers, Paul; Hubler, Stephen A
Cc: Oakley, Carol V
Subject: Guidance 1/24/06: Council of Europe Investigation of Renditions, Secret Prisons

From EUR: More points for our possible use on the topic, though you may have seen.
Mike

EUR Press Guidance
January 24, 2006

Council of Europe Investigation of Renditions, Secret Prisons

Q: What is your reaction to the Council of Europe report on alleged CIA secret prisons and "outsourcing torture?"

- This preliminary report was issued today and we have not yet thoroughly reviewed it. I can offer preliminary reactions:
- These are the same allegations that have been repeated numerous times over the past two months. The facts have not changed:
- With respect to detainees, the United States Government complies with its Constitution, its laws and its international treaty obligations.
- The United States does not condone torture. Nor does it transport detainees from one country to another for the purpose of being tortured.
- We have also stated that as a matter of policy the U.S. will not authorize interrogations involving cruel, inhuman, or degrading treatment, as defined by U.S. obligations under the Torture Conventions, regardless of where those interrogations occur.

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- The recently-enacted Detainee Treatment Act, which represents constructive cooperation between the executive branch and Congress and which received strong bipartisan support, codifies this policy and should send an important message underscoring the commitment of the United States to uphold the values of freedom and humanity on which it was founded.
- The United States works closely with allies across Europe and around the world in facing the threat of terrorism. We respect fully the sovereignty of our partners as we collaborate to capture, detain and question terrorists.
- Rendition is a vital tool in combating international terrorism. It is not new. Renditions are permissible under international law and have been used by other U.S. Administrations and by other governments.
- This tool is consistent with the responsibilities of those governments to protect their citizens.
- As the Secretary has made clear, we need a more balanced dialogue on this issue, one which recognizes:
 - the serious threat posed by terrorists,
 - the appropriateness of making use of military and intelligence tools in confronting this threat, and
 - that most of the criticism, including unfortunately the criticism contained in this report, is based on misperceptions and not facts.

[If pressed for specific comments on specific allegations:]

- As regards specifics or locations, we have not changed our policy of not talking about intelligence matters.

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Background: Rapporteur Dick Marty released his official preliminary report on alleged secret detentions in Council of Europe (COE) member states January 24. The Parliamentary Assembly of the Council of Europe (PACE) debated the issue following the release of the report. Due to time constraints on the debate, only 18 of 31 PACE Members were able to voice their opinions.

The report indicates that "...no cogent evidence has yet emerged on the existence in Europe of detention camps like the one at Guantanamo Bay. On the other hand, it has been proven (and in fact never denied), that individuals have been abducted, deprived of their liberty and all rights, and transported to different destinations

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in Europe, to be handed over to countries in which they have suffered degrading treatment and torture. This is serious enough to justify the continuation of the council of Europe's inquiries and strenuous efforts from all member States to ascertain the truth."

The report also credits the "factual elements secured to date" thanks to the action of the CoE, with the establishment of the European Parliament's 46-member ad hoc committee (which commences work January 26). In addition to this investigation, the Secretary General of the CoE in accordance with the European Convention on Human Rights asked all contracting parties for information about the allegations, which is due to the Secretary General on February 21. The CoE has also asked the Venice Commission to determine the legality, or illegality of renditions. The Venice Commission is expected to produce an answer in March.

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